

**STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Complaint by Maria Pereira, Bridgeport

File No. 2020-011

FINDINGS AND CONCLUSIONS

The Complainant brought this matter alleging, *inter alia*, that 3 electors who she alleged voted using an absentee ballot in the September 10, 2019 Democratic Party Primary, may have not qualified for such absentee ballot under General Statutes § 9-135.¹

After an investigation of the Complaints, the Commission makes the following findings and conclusions:

Law

1. General Statutes § 9-135 enumerates the reasons by which an elector may vote using an absentee ballot in lieu of voting in person and reads, in pertinent part

(a) Any elector eligible to vote at a primary or an election and any person eligible to vote at a referendum may vote by absentee ballot if he or she is unable to appear at his or her polling place during the hours of voting for any of the following reasons: (1) His or her active service with the armed forces of the United States; (2) his or her absence from the town of his or her voting residence during all of the hours of voting; (3) his or her illness; (4) his or her physical disability; (5) the tenets of his or her religion forbid secular activity on the day of the primary, election or referendum; or (6) the required performance of his or her duties as a primary, election or referendum official, including as a town clerk or registrar of voters or as staff of the clerk or registrar, at a polling place other than his or her own during all of the hours of voting at such primary, election or referendum.

¹ The following are the Commission's findings and conclusions based on those portions of the Complainant's statement of complaint which the Commission could reasonably construe as alleging facts amounting to a specific violation of those laws within the Commission's jurisdiction and which are not already the subject of any current or prior Commission matter. Any statements within the Complaint not addressed herein either did not specifically allege a violation, alleged facts which if proven true would not have amounted to a violation within the Commission's jurisdiction, or are the subject of a current or prior docketed commission investigation.

(b) No person shall misrepresent the eligibility requirements for voting by absentee ballot prescribed in subsection (a) of this section, to any elector or prospective absentee ballot applicant...

2. The default rule of voting in Connecticut is that an elector must vote in person at such elector's designated polling location or such elector's Election Day registration location. Absentee voting is a limited exception to that general rule, which is not only established in General Statutes § 9-135, but also in Section 7 of Article Sixth of the Constitution of the State of Connecticut.
3. In general, exceptions to the law are narrowly construed. See *Commission on Human Rights and Opportunities v. Sullivan*, 285 Conn. 208, 222, 939 A.2nd 541 (2008); *In the Matter of a Complaint by Louis DeCilio, Stratford*, File No. 2017-057 (exception for absentee ballot voting by primary, election, or referendum officials does not include unofficial checkers).

Allegation

4. In this matter, the Complainant alleged, as follows, in pertinent part:

In my ten years involved in Bridgeport Politics, I have never had a legitimate need to complete four or more absentee ballot applications from a single residence for a September Democratic Primary or November General Election. It is even more rare that three or more voters residing in the same home will need absentee ballots in both a September Primary and November General Election. There is often a[n] increased need for absentee ballots in August Democratic Primaries because public schools have not yet begun, therefore entire households are in need of absentee ballots because entire families are away on family vacations. . . . The respondents ranged in age from 20-26. I recognize these can be college students, however both their September & November ballots were mailed to their residence in Bridgeport, not out-of-state or non-Bridgeport addresses in CT. This raises suspicions for me.

5. The Commission notes that it does not appear from the face of this Complaint that the Complainant had specific knowledge of the excuse each voter selected when applying for an absentee ballot. The Complainant did not make any specific allegation that any of these electors falsely signed their sworn statements, nor did she include any evidence of what actual selection each elector made on their absentee ballot application.²

² No absentee ballot applications were included with this Complaint.

6. Moreover, the Complainant did not provide any specific information to show that these electors did not qualify for the absentee ballots for which they applied.
7. Complainant's two primary bases for this Complaint was first that more than one elector from the same household may have utilized an absentee ballot and second that such electors may have applied for an absentee ballot for the September 10, 2019 Democratic Party Primary and the November 5, 2019 General Election.

Investigation

8. As an initial matter, SEEC investigators conducted a review and analysis of records from prior primaries and elections going back to 2015.
9. As to the former allegation regarding multiple individuals from the same household using absentee ballots, the SEEC investigation found that more than one elector in the same household voting by absentee ballot is not anomalous in Bridgeport, as alleged.
10. As to the latter allegation, the SEEC investigation found no established absentee ballot use pattern between primaries and elections.
11. As such, as a sole predicate for conducting a full evidentiary inquiry of whether a voter qualified for an absentee ballot, neither of these allegations, alone, are availing.
12. Turning to the specific Respondent Electors here alleged to have falsely applied for and cast absentee ballots in the September 10, 2019 Democratic Party Primary, Commission investigators confirmed that all of the Respondent Electors did apply for and did timely submit absentee ballots for the September 10, 2019 Democratic Party Primary in the City of Bridgeport.³
13. No evidence was discovered that any of these electors attempted to vote in any other manner in the September 10, 2019 Democratic Party Primary or in any other primary or election being held on that day.
14. In this case, each Respondent Elector ranged in age from 20 to 26 and selected on their absentee ballot applications "out of town" as their excuse for needing an absentee ballot.

³ Commission investigators also confirmed that these electors did not vote in the November 5, 2019 General Election.

15. While these matters were brought against these Respondent electors without specific knowledge of what actual selections each elector made on their applications, in an abundance of caution, Commission investigators reached out to each of these electors.
16. Despite diligent efforts, Commission investigators were unable to obtain reliable contact information and/or make affirmative contact with any Respondent Elector named in this Complaint and who voted using an absentee ballot in the September 10, 2019 Primary.

Analysis and Conclusion

17. Turning to the question here, the Commission notes as an initial matter in its analysis that it is the state's responsibility to prove that an elector did not qualify for an absentee ballot; it is not an elector's responsibility to prove that they did. Such elector's "excuse" is presumed valid unless or until proven otherwise.
18. A Complaint has been brought here alleging nonspecifically that certain electors did not qualify for an absentee ballot. However, such Complaint was brought without substantial evidence supporting such allegation, without the Complainant alleging any knowledge of what selection such elector actually made or why such selection may have been false.
19. Accordingly, the Commission is not compelled to seek further proof of these electors' qualifications or make any other extraordinary inquiry beyond the aforesaid described above.
20. In consideration of the above, the Commission has no material evidence to indicate that it was more likely than not that any Respondent Elector's assertion on their absentee ballot application was false.
21. Accordingly, the Commission will take no further action as to these Respondents.

ORDER

The following Order is recommended on the basis of the aforementioned findings:

No further action

Adopted this 3rd day of March, 2021 at Hartford, Connecticut.

A handwritten signature in black ink, appearing to read "Stephen T. Penny", is written over a horizontal line.

Stephen T. Penny, Chairperson
By Order of the Commission